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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/425,027	10/25/1999	TAKASHI SHIMIZU	104610	8990

7590 01/17/2002

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EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/17/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

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<i>Office Action Summary</i>	Application No.	Applicant(s)	
	Examiner	Group Art Unit	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/28/01
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-11 is/are pending in the application.
- Of the above claim(s) 4-6 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 7-11 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- | | |
|--|---|
| <input type="checkbox"/> Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ | <input type="checkbox"/> Interview Summary, PTO-413 |
| <input type="checkbox"/> Notice of Reference(s) Cited, PTO-892 | <input type="checkbox"/> Notice of Informal Patent Application, PTO-152 |
| <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review, PTO-948 | <input type="checkbox"/> Other _____ |

Office Action Summary

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Applicant's election with traverse of claims 1-3 in Paper No. 2 is acknowledged. The traversal is on the ground(s) that a complete search for the claimed product should also entail a search for the process of making the product, and also it is contended that as the claims of Group II include all of the limitations of claim 1 of Group I upon allowance of the claims of the article of Group I, the process claims of Group II must be allowed. This is not found persuasive since the non-elected method claims contain additional multiple limitations which are not found in the elected article claims and thereby clearly constitute a serious additional burden on the Examiner, applicant's comments to the contrary notwithstanding.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being anticipated by applicant's admission regarding the prior art on page 1 of the specification as set forth in paragraph No. 9 of Paper No. 2, together with the following additional observations. More particularly, the Examiner respectfully disagrees with applicant's contention (Response page 4 last complete paragraph) that the formed vehicle lining of the present invention would comprise two bonded hot melt adhesive layers that

together would form a patentably distinct layer from the one fused hot melt adhesive layer which the Examiner contends would exist after curing of the adhesive. It is well known that hot melt adhesives flow significantly (note, e.g. applicant's newly presented claim 7) during processing and as such the Examiner cannot agree with applicant's contention that a patentably distinct adhesive layer would exist upon curing. With respect to the argument (Response page 4-5 bridging paragraph) that the web adhesive layer on the top cover member will produce a superior end product than the one formed by using the film adhesive layer of the prior art by preventing the presence of air bubbles in the bonded together hot melt layer, the Examiner makes the following observation. This argument appears to be unsupported by any suitable objective evidence such as the presence of a suitable declaration establishing the structural differences which would exist, and the referred to paragraph bridging pages 7-8 of the specification is seen to be far too vague to support a holding of patentability resting upon this theory at this time. That is, while the Examiner believes that it might be possible that significant amounts of air bubbles could become entrained in the adhesive layer of the prior art following bonding and curing, such a holding cannot be seen to be supported by the record to date.

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4. Claims 1-3 and 7-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over applicant's admissions on page 1 of the specification, as previously discussed in Paragraph No. 11 of Paper No. 2. The Examiner does not agree with applicant's remarks (Response, page 5) that based on the record before us, that using a web-like hot melt adhesive instead of a film-like hot melt adhesive as one of the two bonding layers would necessarily produce a layer that would be bonded together and still comprise two patentably distinct bonded layers, instead of only one fused hot melt adhesive layer. Whatever resulting structural distinctions that might exist are still believed to be obvious modifications to one of ordinary skill in the art, in the absence of unexpected results. As regards the newly presented dependent claims, such conventional elements as density (claim 8), particular hot melt adhesives (claim 9) and film thicknesses (claim 10) are each believed to be well within the ordinary skill of the art, if not expressly or inherently disclosed.

5. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 7 and 9 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

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regards as the invention. More particularly, in newly presented claim 7 the Examiner believes that the phrase "high flowability" is both vague and indefinite, and "flowability" is presently misspelled. In claim 9 Markush language should be used in place of "comprises".

7. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

January 16, 2002

**DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300-**

1700

Daniel Zirker